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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,717	12/12/2003	William Bedingham	59071US002	2357

32692 7590 07/17/2006

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EXAMINER
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RAEVIS, ROBERT R

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/734,717	BEDINGHAM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert R. Raevis	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/29/06</u>   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "located closer" (claim 26) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims 1-,9,11-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 23, the preamble calls for a "device", yet the body (after "comprising", line 1) calls for a plurality of unconnected arrays, suggestive of an aggregation of parts. Thus, the preamble is not consistent with the body. Is this claim directed to a single device (as suggested by the preamble), or is it directed to a plurality of parts (as suggested by the body)?

As to claims 1-30, the terms "valved" and "valve" are confusing, as the written specification and disclosure seems to describe a wall 64 in which an opening is formed by a laser, and not a valve. The term "valve" is not consistent with its regular meaning. After all, valves are reusable, and the disclosed creation of an opening in the wall 64 is not. Valves include seats and valve members. Puncturing a hole in the side of a pool does not suggest a valve. It merely suggests a broken liner.

Claims 14,16,17,20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Godec et al.

Godec et al teach (Figure 2; See Exhibit "A", taking care to following the penciled lines, leads and labels) valved process chamber on a sample processing device, the valved process chamber including: process chamber 90 having a volume between right and left hand external walls of "rectangular" (col. 6, line 44) housing 10, the chamber occupying an process chamber area (between right hand external wall and vertically

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Art Unit: 2856

extending mid wall), and the area having a length (height) and width; a valve chamber 60 located within the process chamber area, the valve chamber located between the process chamber volume 90 and the left hand side of the processing device, wherein the valve chamber is isolated from the process chamber by a septum 94 separating the valve chamber and the process chamber, and where a portion of the process chamber volume lies between the septum 94 and the right hand external wall. The chamber is typically a "test tube" (col. 8, line 17), which passes electromagnetic energy there through, permitting liquid level to be seen as it leaves the container.

As to claims 14,16,17,20, test tubes are transparent, and thus provide for a detection window. (In the alternative, Godec's test tube requirement is suggestive of use of any known test tube, including those of the transparent nature.) Also, the height of the apparatus 10 may be deemed to be a length, as it is a measure of length.

Claim 21,23,24,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godec et al.

As to claim 21, it would have been obvious to utilize Godec's apparatus to test blood because blood is typically removed from test tubes for sampling, suggestive of Godec's effective analyzer supplier as a means to pass blood in a test tube to an analyzer.

As to claim 23, comments existing above as to claim 14 similarly apply here. In addition, it would have been obvious to employ two (20) of Godec's devices 10 on the

Art Unit: 2856

same table to permit two operators to conveniently provide for two tests on two samples at the same time.

As to claim 24,25, it is known to fill a sample test tube 90 from a source of fluid.

As to Applicant's **Remarks**, please consider the following:

As to p. 11, last two paragraphs; please note that the Kellogg reference uses the term "sacrificial valve". Thus, that reference seems to acknowledge that there is a difference between a valve and a one-time use element. It was noted that the Remarks do not provide a definition for the claimed "valve".

As to p. 12, second to last full paragraph; test tubes are transparent, and provide for a handler to actually see its contents. Also, the needle does permit for forming an opening in the septum 94 at a location within the tube that is viewable from outside the tube. The sample is drawn only after a handler places a tube that is seen to include an existing/present sample into the device 10.

As to claim 1, note was made of "within the process chamber area" (line 3 from last), with remaining claim limitations.

As to claim 13, note was made of "within the process chamber area" (line 8), with remaining claim limitations.

As to claim 122 note was made of "within the process chamber area" (line 11 from last), with remaining claim limitations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raavis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 7am to 4pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RAEVIS